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10/828,746

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Jerome J. Kochanski

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SCHMEISER OLSEN & WATTS
18 E UNIVERSITY DRIVE
SUITE # 101
MESA, AZ 85201

EXAMINER

MARSH, STEVEN M

ART UNIT

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DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

This is the fourth office action for U.S. Application 11/828,746 for a Hold Down Device filed on April 20, 2007. Claims 1-6, 8-14, 16-21, and 23-25 are pending

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 8, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,325,251 to Santos in view of U.S. Patent 6,138,853 to Frechette.

Santos discloses a container (10) with a top portion, a bottom portion, a front end and a rear end. There is a handle (18) for carrying the device and a hose recess (inside of the container) with a right wall, a left wall, an upper wall, and an opening (at 32 for receiving 28, 29) on the front end of the container. The hose recess extends from the front end to the rear end of the container and receives a discharge hose (29) between the right wall, left wall, upper wall, and a ground surface. The container is adapted to hold down the discharge hose during draining and the container is hollow and made of a solid material of sufficient weight for holding down the hose and the container is configured to be filled and emptied with a filling material for varying the weight of the device. The container is configured to vertically stack two containers for added weight to hold down the hose and configured to be stored by wrapping the hose around the container. The handle is

Art Unit: 3632

integral with the top portion of the container and configured to allow the discharge hose to wrap around it and the hose recess is configured to receive the discharge hose between the right wall, left wall, upper wall and rear wall. There is a fill hole (at 48) on the top portion of the container for filling and emptying the container with a filling material, and a plug (48) removably coupled to the fill hole for retaining the material within the container.

Santos does not disclose feet coupled to the bottom of the container. Frechette disclose a fuel container with feet (3) made of a non-slip material coupled to the bottom of the container for resting the container on a surface. The feet are a circular molded relief protruding from the bottom of the container and could rest over a splash ring coupled to a sewer fitting. It would have been obvious to one of ordinary skill in the art to use the non-slip feet at the bottom of the container taught by Santos to rest the container on a surface as taught by Frechette. Using the known technique of providing feet on the container for resting the container of Santos on a surface would have been obvious to one of ordinary skill.

Allowable Subject Matter

Claims 10-14, 16-21, and 23-25 are allowed.

Response to Arguments

Applicant's arguments with respect to claims 1-9 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **STEVEN M. MARSH** whose telephone number is (571)272-6819. The examiner can normally be reached on 8:30 am - 7:00 pm (Monday-Thursday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J Allen Shriver can be reached on 571-272-6698. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3632

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/S. M. M./
Examiner, Art Unit 3632
June 5, 2009

/J. ALLEN SHRIVER II/
Supervisory Patent Examiner, Art Unit 3632